IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition 15295 of 2006

Date of decision: 25.9.2006.

SK Vij …Petitioner

Versus

Indian Bank and ors …Respondents

CORAM: HON'BLE MR JUSTICE S.S.NIJJAR.
HON'BLE MR JUSTICE S.S.SARON.

Present: Mr Sarabjit Singh Heera, Advocate, for the petitioner.

S.S. SARON, J.

The petitioner joined the Indian Bank (respondent No.1) (Bank – for short) as a Clerk on 7.6.1978. He was promoted as Assistant Manager on 7.2.1989. During the course of his service in Sector 34, Chandigarh branch of the Bank as Assistant Manager in the Currency Chest, he was issued a charge sheet in respect of 40 charges. The said charge sheet was later modified on 12.3.2001 alleging therein various procedural lapses which, if proved, would constitute misconduct in terms of Regulation 3 (1) of the Indian Bank Officers Employees' (Conduct) Regulations, 1976 ('Regulations' – for short). The petitioner filed his reply to the charge sheet. However, the Bank dissatisfied with the same, decided to hold an inquiry against him and accordingly an inquiry officer was appointed. The inquiry officer, after conducting an inquiry and considering the matter, submitted his report on 11.5.2002 (Annexure P2) and held the petitioner guilty of misconduct under Regulation 3(1) of the Regulations. The petitioner according to the inquiry officer failed to take all possible steps to ensure and protect the interest of the Bank and discharge his

duties with utmost devotion and diligence, which is unbecoming of a Bank Officer. The copy of the report of the inquiry officer was given to the petitioner on 13.5.2002 and he was asked to submit his comments to the same. The petitioner submitted his reply on 30.5.2002 (Annexure P3). After considering the report, the Chief Manager of the Bank concurred with the findings of the inquiry officer and imposed the penalty of removal from service in terms of Regulation 4(1) of the Regulations. Aggrieved against the order of the Chief Manager of the Bank, the petitioner filed an appeal (Annexure P5) against the order of his removal from service. The appellate authority i.e. the General Manager of the Bank, after considering the matter upheld findings reached at by the disciplinary authority, however, it modified the punishment from that of removal from service to that of compulsory retirement from service. The petitioner dissatisfied with the order of the appellate authority, filed a review petition dated 30.4.2004 (Annexure P7) before the Executive Director cum reviewing authority of the Bank. Thereafter, he approached this Court by way of CWP 18783 of 2003 which was disposed of on 4.12.2003 (Annexure P8) with a direction to respondent No.2 therein to take a decision on the statutory review petition filed by the petitioner within a period of four months from the date the certified copy of the said order was received. The reviewing authority, after considering the matter on 3.12.2003 (Annexure P9) found no reason to interfere with the punishment of compulsory retirement as had been imposed by the appellate authority. Accordingly, the order passed by the appellate authority of the Bank was confirmed. The petitioner then approached this Court by way of CWP 8649 of 2004 which was disposed of on 12.5.2005 (Annexure P10) with the direction to the Executive Director/reviewing authority of the Bank to pass a fresh order on the statutory review application filed by the petitioner and while passing a fresh order, all the pleas raised by

the petitioner in the review application be noticed and dealt with. In compliance with the said order, the Executive Director/reviewing authority of the Bank has passed a fresh order on 28.11.2005 (Annexure P11). The petitioner, in this petition under Articles 226/227 of the Constitution of India seeks quashing of the inquiry report dated 13.5.2002 (Annexure P2), the order dated 13.7.2002 (Annexure P4) passed by the disciplinary authority imposing the penalty of removal from service, the order dated 11.3.2003 (Annexure P6) passed by the appellate authority imposing penalty of compulsory retirement and the order dated 28.11.2005 (Annexure P11) rejecting the review petition. A further prayer has been made for seeking his reinstatement in service with all consequential benefits as if the impugned order of removal from service and compulsory retirement from service had not been passed.

Learned counsel for the petitioner contends that the respondents have gravely erred in holding that the petitioner was instrumental in misappropriation of the Bank's funds aggregating to Rs. 14,000/- whereas the entries passed under relevant heads were of routine nature. Besides, it is contended that the respondents erred in holding that the petitioner had misappropriated the funds of the Bank whereas the vouchers passed by the petitioner were for reversing the entries outstanding in the sundry account for spoiled notes, the advance taken for minor repairs of the cash van, printing of stationary and other miscellaneous items. It is contended that the service of the petitioner have been dispensed with a mala fide intention and procedural lapses have wrongly been taken to be a case of misappropriation. In fact, the petitioner did not draw any pecuniary benefit from the alleged irregularities and had incurred expenditure only for protecting the interest of the Bank. He cannot, therefore, be charged for committing misappropriation of the Bank's funds. In any case, it is contended that the punishment of his compulsory

retirement from service is excessive and not commensurate to the gravity of the alleged misconduct.

We have given our thoughtful consideration to the contentions of the learned counsel for the petitioner. However, find no merit in the same. The contentions as raised by the learned counsel for the petitioner are in fact factual assertions on the merit of the inquiry that has been conducted against the petitioner. The inquiry officer after holding and conducting the inquiry has reached the conclusions and held the petitioner guilty of misconduct in terms of Regulation 3(1) of the Regulations. The petitioner, it was observed, had failed to take all possible steps to ensure and protect the interest of the Bank and discharge his duties with utmost devotion and diligence, which was unbecoming of a Bank officer. The conclusions reached at by the inquiry officer have been concurred with not only by the disciplinary authority but also by the appellate and the reviewing authorities. Therefore, it is not for this Court in the exercise of its supervisory writ jurisdiction, to sit over the findings of facts recorded by the disciplinary authorities. The jurisdiction of this Court is supervisory and in exercise of it, it is not for this Court to act as an appellate Court and thereby dislodge the concurrent findings of fact that have been recorded by the authorities conducting the disciplinary action. The limited jurisdiction that this Court has is for issuance of a writ of certiorari with regard to findings of facts recorded by the departmental authorities is limited and a writ can be issued only if it is shown that the conclusions reached at by the departmental authorities are perverse or irrational or that in recording the said findings, the authorities had refused to admit admissible and material evidence or had wrongly admitted inadmissible evidence which has influenced the impugned findings. It is not shown by the petitioner that the findings reached at by the departmental authorities are based on no evidence or

that in recording the same, the authorities have recorded findings which are perverse or irrational. The petitioner has failed to show that in the decision making process leading to the imposition of punishment of compulsory retirement, there has been violation of any provision of law which is of substantive nature. In other words, no prejudice is shown to have been caused to him during the entire proceedings. The reviewing authority/Executive Director of the Bank, on directions of this Court as contained in the order dated 12.5.2005 (Annexure P10) has considered the matter threadbare and passed a detailed and reasoned order. The petitioner has failed to show any illegality or infirmity in the said order, which would warrant interference by this Court in exercise of its supervisory writ jurisdiction.

Insofar as the quantum of punishment is concerned, this Court is not to interfere with the quantum unless the punishment imposed is shockingly disproportionate to the gravity of the act complained of. The petitioner was initially imposed the punishment of removal from service which has been modified by the appellate authority to that of compulsory retirement. In the circumstances, the punishment of compulsory retirement cannot be said to be shockingly disproportionate to the gravity of the misconduct which would warrant interference by this Court in exercise of its jurisdiction under Articles 226/227 of the Constitution of India.

For the foregoing reasons, there is no merit in this petition and the same is dismissed.

(S.S.NIJJAR)
JUDGE

25.9.2006.
ASR

(S.S.SARON)
JUDGE